IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8526 of 2006

Sarjerao Marutirao Wabale ..Petitioner

V/s

Ramakant Dattoba Wagh and Anr..Respondents

Shri Amit Sale for the Petitioner

CORAM:S.R.SATHE,J.

DATED:13th July 2007

P.C.:-

1. Heard the learned Advocate for the Petitioner.

2. In this writ petition the petitioner is challenging the order passed by the trial Court whereby application filed by the present petitioner for the appointment of Commissioner was rejected.

3. From perusal of the record it is very clear that period in respect of which mesne profits are claimed are covered by the earlier decree. Moreover the mesne profits which are claimed are during the period from 16-8-1984 to 4-3-2004. When such was the position the trial Court was justified in observing that appointment

of the Commissioner in the year 2006 or in the year 2007 will not at all help the party to prove his case. If the petitioner wants to say that the mesne profits claimed are excessive then the petitioner can certainly adduce independent evidence in that behalf. But there was absolutely no need to appoint the Commissioner. The learned trial Judge has rightly rejected the application. I do not find any error of law in the same. No necessity to interfere with the said order.

4. Hence writ petition is rejected.

(S.R.SATHE,J.)